

CLOSED, [CLOSED_2012](#)

U.S. DISTRICT COURT
U.S. District Court, Western District of New York (Rochester)
CIVIL DOCKET FOR CASE #: 6:08-cv-06181-DGL-MWP

Dolin, Thomas & Solomon LLP v. United States Department of Labor

Assigned to: Hon. David G. Larimer

Referred to: Hon. Marian W. Payson

Related Case: [6:04-cv-06541-DGL-MWP](#)

Cause: 05:552 Freedom of Information Act

Date Filed: 04/22/2008

Date Terminated: 04/11/2012

Jury Demand: None

Nature of Suit: 895 Freedom of Information Act

Jurisdiction: Federal Question

Plaintiff

Dolin, Thomas & Solomon LLP

represented by **J. Nelson Thomas**

Thomas & Solomon LLP

693 East Avenue

Rochester, NY 14607

585-272-0540

Fax: 585-272-0574

Email: nthomas@theemploymentattorneys.com

LEAD ATTORNEY

ATTORNEY TO BE NOTICED

Michael J. Lingle

Thomas & Solomon LLP

693 East Avenue

Rochester, NY 14607

585-272-0540

Fax: 585-272-0574

Email: mlingle@theemploymentattorneys.com

LEAD ATTORNEY

ATTORNEY TO BE NOTICED

Cristina A. Bahr

Harris Beach LLP

99 Garnsey Road

Pittsford, NY 14534

585-419-8946

Fax: 585-419-8817

Email: cbahr@harrisbeach.com

TERMINATED: 08/05/2010

Peter John Glennon

Thomas & Solomon LLP

693 East Avenue

Rochester, NY 14607

585-272-0540

Fax: 585-272-0574

Email: pjglennon@theemploymentattorneys.com

TERMINATED: 03/19/2012

V.

Defendant

United States Department of Labor

represented by **Christopher V. Taffe**

U.S. Attorney's Office

100 State Street

Room 620

Rochester, NY 14614

(585) 263-6760, ext. 2226

Fax: 585-263-6226

Email: christopher.taffe@usdoj.gov

TERMINATED: 07/16/2009
LEAD ATTORNEY

Jane B. Wolfe
 U.S. Attorney's Office
 Federal Centre
 138 Delaware Avenue
 Buffalo, NY 14202
 716-843-5874
 Fax: 716-551-3196
 Email: jane.wolfe@usdoj.gov
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
04/22/2008	<u>1</u>	COMPLAINT against United States Department of Labor (Filing fee \$350 receipt number ROC001841), filed by Dolin, Thomas & Solomon LLP.(JHF) (Entered: 04/22/2008)
04/22/2008		Summons Issued as to United States Department of Labor, U.S. Attorney and U.S. Attorney General. (JHF) (Entered: 04/22/2008)
06/05/2008	<u>2</u>	SUMMONS Returned Executed by Dolin, Thomas & Solomon LLP. United States Department of Labor served on 4/23/2008, answer due 6/23/2008. (Thomas, J.) (Entered: 06/05/2008)
06/05/2008	<u>3</u>	SUMMONS Returned Executed by Dolin, Thomas & Solomon LLP. (Thomas, J.) (Entered: 06/05/2008)
06/05/2008	<u>4</u>	SUMMONS Returned Executed by Dolin, Thomas & Solomon LLP. (Thomas, J.) (Entered: 06/05/2008)
06/12/2008	<u>5</u>	ORDER extending time: Answer due date updated as to United States Department of Labor answer due 7/11/2008. Signed by Hon. David G. Larimer on 6/12/08. (TO) (Entered: 06/13/2008)
07/10/2008	<u>6</u>	AMENDED COMPLAINT against United States Department of Labor, filed by Dolin, Thomas & Solomon LLP.(Thomas, J.) (Entered: 07/10/2008)
07/10/2008	<u>7</u>	CERTIFICATE OF SERVICE by Dolin, Thomas & Solomon LLP re <u>6</u> Amended Complaint (Bahr, Cristina) (Entered: 07/10/2008)
07/11/2008	<u>8</u>	ANSWER to <u>6</u> Amended Complaint by United States Department of Labor. (Attachments: # <u>1</u> Exhibit "A", # <u>2</u> Exhibit "B", # <u>3</u> Exhibit "C", # <u>4</u> Certificate of Service)(Taffe, Christopher) (Entered: 07/11/2008)
09/23/2008	<u>9</u>	TEXT ORDER REFERRING CASE TO Magistrate Judge Marian W. Payson for all pretrial matters excluding dispositive motions. Signed by Hon. David G. Larimer on 9/23/08. (PR) (Entered: 09/23/2008)
09/23/2008		Hon. Marian W. Payson added. (PR) (Entered: 09/23/2008)
10/01/2008	<u>10</u>	ORDER (Scheduling Conference set for 11/4/2008 11:40 AM before Hon. Marian W. Payson.) Signed by Hon. Marian W. Payson on 10/1/2008. (KAH) (Entered: 10/01/2008)
11/04/2008	<u>11</u>	ORDER (Settlement Conference set for 12/2/2008 at 2:00 PM before Hon. Marian W. Payson. Parties are directed to appear in person, including a representative with the U.S. Department of Labor. At least one week prior to the conference, each party shall submit directly to chambers a confidential settlement report.) Signed by Hon. Marian W. Payson on 11/4/2008. (KAH) (Entered: 11/05/2008)
11/04/2008	<u>12</u>	Minute Entry for proceedings held before Hon. Marian W. Payson: Scheduling Conference held on 11/4/2008. Appearances: Annette Gifford, Esq. for plaintiff; Christopher V. Taffe, AUSA for defendant (CAM) (Entered: 11/10/2008)

11/25/2008	<u>13</u>	SCHEDULING ORDER:(12/2/2008 Settlement Conference Adjourned Without Date. Status Conference set for 1/27/2009 10:40 AM before Hon. Marian W. Payson. Dispositive Motions due by 3/13/2009.) Signed by Hon. Marian W. Payson on 11/25/2008. (KAH) (Entered: 11/25/2008)
01/27/2009	<u>14</u>	Minute Entry for proceedings held before Hon. Marian W. Payson: Status Conference held on 1/27/2009. Appearances: Cristina Douglass, Esq. for plaintiff; Christopher V. Taffe, AUSA for defendant (CAM) (Entered: 01/29/2009)
02/13/2009	<u>15</u>	LETTER ORDER granting request to extend dispositive motions deadline. (Dispositive Motions due by 4/15/2009.) Signed by Hon. Marian W. Payson on 2/13/2009. (KAH) (Entered: 02/13/2009)
04/15/2009	<u>16</u>	MOTION for Summary Judgment by Dolin, Thomas &Solomon LLP.(Douglass, Cristina) (Entered: 04/15/2009)
04/15/2009	<u>17</u>	MEMORANDUM IN SUPPORT re <u>16</u> MOTION for Summary Judgment byDolin, Thomas &Solomon LLP. (Douglass, Cristina) (Entered: 04/15/2009)
04/15/2009	<u>18</u>	AFFIRMATION signed by Cristina A. Douglass re <u>16</u> MOTION for Summary Judgment filed by Dolin, Thomas &Solomon LLP. (Douglass, Cristina) (Entered: 04/15/2009)
04/15/2009	<u>19</u>	STATEMENT OF FACTS by Dolin, Thomas &Solomon LLP Related document: <u>16</u> Motion for Summary Judgment. (Douglass, Cristina) (Entered: 04/15/2009)
04/15/2009	<u>20</u>	STATEMENT OF FACTS <i>Appendix of Exhibits to Statement of Facts</i> by Dolin, Thomas &Solomon LLP Related document: <u>16</u> Motion for Summary Judgment. (Attachments: # <u>1</u> Exhibit A–L, # <u>2</u> Exhibit M–O, # <u>3</u> Exhibit P–R)(Douglass, Cristina) (Entered: 04/15/2009)
04/15/2009	<u>21</u>	CERTIFICATE OF SERVICE by Dolin, Thomas &Solomon LLP re <u>16</u> MOTION for Summary Judgment, <u>19</u> Statement of Facts, <u>18</u> Affirmation, <u>17</u> Memorandum in Support, <u>20</u> Statement of Facts (Douglass, Cristina) (Entered: 04/15/2009)
04/21/2009	<u>22</u>	ORDER re <u>16</u> MOTION for Summary Judgment filed by Dolin, Thomas &Solomon LLP. Responses due by 5/21/2009. Signed by Hon. David G. Larimer on 4/21/09. (PR) (Entered: 04/21/2009)
05/22/2009	<u>23</u>	ORDER extending time to respond to <u>16</u> MOTION for Summary Judgment filed by Dolin, Thomas &Solomon LLP, (Responses due by 8/21/2009). Signed by Hon. David G. Larimer on 5/22/09. (TO) (Entered: 05/22/2009)
07/16/2009	<u>24</u>	NOTICE of Appearance by Jane B. Wolfe on behalf of United States Department of Labor (Wolfe, Jane) (Entered: 07/16/2009)
08/19/2009	<u>25</u>	ORDER extending time to respond to <u>16</u> MOTION for Summary Judgment filed by Dolin, Thomas &Solomon LLP, (Responses due by 10/23/2009). Signed by Hon. David G. Larimer on 8/19/09. (TO) (Entered: 08/20/2009)
10/23/2009	<u>26</u>	ORDER extending time to file a response to <u>16</u> MOTION for Summary Judgment filed by Dolin, Thomas &Solomon LLP, (Responses due by 11/13/2009.). Signed by Hon. David G. Larimer on 10/23/09. (TO) (Entered: 10/26/2009)
11/13/2009	<u>27</u>	LETTER ORDER extending time to file a response re: <u>16</u> MOTION for Summary Judgment. Responses due by 12/18/2009. Replies due by 1/29/2010. Signed by Hon. David G. Larimer on 11/13/09. (RE) (Entered: 11/17/2009)
12/18/2009	<u>28</u>	Cross MOTION for Summary Judgment by United States Department of Labor.(Wolfe, Jane) (Entered: 12/18/2009)
12/18/2009	<u>29</u>	STATEMENT OF FACTS <i>[DEFENDANT'S RESPONSE]</i> by United States Department of Labor Related document: <u>19</u> Statement of Facts. (Wolfe, Jane) (Entered: 12/18/2009)
12/18/2009	<u>30</u>	STATEMENT OF FACTS <i>PURSUANT TO LOCAL RULE 56.1</i> by United States Department of Labor Related document: <u>28</u> Motion for Summary Judgment. (Wolfe, Jane) (Entered: 12/18/2009)

12/18/2009	<u>31</u>	AFFIDAVIT re <u>28</u> Cross MOTION for Summary Judgment by United States Department of Labor. (Attachments: # <u>1</u> Exhibit 1 – Declaration of Bonny K. Crosby, # <u>2</u> Exhibit A, # <u>3</u> Exhibit B, # <u>4</u> Exhibit C, # <u>5</u> Exhibit D, # <u>6</u> Exhibit E, # <u>7</u> Exhibit F, # <u>8</u> Exhibit 2 – Declaration of Joseph J. Plick, # <u>9</u> Exhibit G through item G–9, # <u>10</u> Exhibit G, item G–11 through G–21 [end], # <u>11</u> Exhibit H through item H–4, # <u>12</u> Exhibit H, items H–5 through H–16, # <u>13</u> Exhibit H, items H–18 through H–31[end], # <u>14</u> Exhibit I through item I–5, # <u>15</u> Exhibit I items I–6 through I–12, # <u>16</u> Exhibit ! items I–14 through I–26 [end])(Wolfe, Jane) (Entered: 12/18/2009)
12/18/2009	<u>32</u>	MEMORANDUM IN SUPPORT re <u>28</u> Cross MOTION for Summary Judgment by United States Department of Labor. (Wolfe, Jane) (Entered: 12/18/2009)
12/29/2009	<u>33</u>	ORDER re <u>28</u> Cross MOTION for Summary Judgment filed by United States Department of Labor. Responses due by 1/29/2010. Signed by Hon. David G. Larimer on 12/29/09. (PR) (Entered: 12/29/2009)
02/01/2010	<u>34</u>	ORDER plaintiff to file reply to <u>16</u> MOTION for Summary Judgment filed by Dolin, Thomas & Solomon LLP by 2/26/10 and in regard to <u>28</u> Cross MOTION for Summary Judgment filed by United States Department of Labor, (Plaintiff's Response due by 2/26/2010, Replies due by 3/19/2010.). Signed by Hon. David G. Larimer on 1/29/10. (TO) (Entered: 02/02/2010)
02/26/2010	<u>35</u>	MEMORANDUM IN SUPPORT re <u>16</u> MOTION for Summary Judgment <i>Reply Memorandum of Law in Further Support of Summary Judgment</i> by Dolin, Thomas & Solomon LLP. (Douglass, Cristina) (Entered: 02/26/2010)
02/26/2010	<u>36</u>	AFFIRMATION signed by Cristina A. Douglass re <u>35</u> Memorandum in Support filed by Dolin, Thomas & Solomon LLP. (Attachments: # <u>1</u> Exhibit A–D, # <u>2</u> Exhibit E–F, # <u>3</u> Exhibit G, # <u>4</u> Exhibit H, # <u>5</u> Exhibit I)(Douglass, Cristina) (Entered: 02/26/2010)
02/26/2010	<u>37</u>	MEMORANDUM IN OPPOSITION re <u>28</u> Cross MOTION for Summary Judgment by Dolin, Thomas & Solomon LLP. (Douglass, Cristina) (Entered: 02/26/2010)
02/26/2010	<u>38</u>	AFFIRMATION signed by Cristina A. Douglass re <u>37</u> Memorandum in Opposition filed by Dolin, Thomas & Solomon LLP. (Douglass, Cristina) (Entered: 02/26/2010)
02/26/2010	<u>39</u>	STATEMENT OF FACTS <i>Response to Defendant's Statement of Undisputed Facts and Plaintiff's Statement of Facts in Dispute</i> by Dolin, Thomas & Solomon LLP Related document: <u>37</u> Memorandum in Opposition, <u>38</u> Affirmation. (Douglass, Cristina) (Entered: 02/26/2010)
02/26/2010	<u>40</u>	STATEMENT OF FACTS <i>Appendix to Statement of Facts</i> by Dolin, Thomas & Solomon LLP Related document: <u>39</u> Statement of Facts,. (Attachments: # <u>1</u> Exhibit A–E, # <u>2</u> Exhibit F–G)(Douglass, Cristina) (Entered: 02/26/2010)
02/26/2010	<u>41</u>	CERTIFICATE OF SERVICE by Dolin, Thomas & Solomon LLP re <u>37</u> Memorandum in Opposition, <u>38</u> Affirmation, <u>40</u> Statement of Facts, <u>35</u> Memorandum in Support, <u>39</u> Statement of Facts, <u>36</u> Affirmation (Douglass, Cristina) (Entered: 02/26/2010)
03/25/2010	<u>42</u>	ORDER re <u>28</u> Cross MOTION for Summary Judgment filed by United States Department of Labor,(Reply due by 4/9/2010), defendant's request for an enlargement of its reply memeo page limit is granted. Signed by Hon. David G. Larimer on 3/25/2010. (TO) (Entered: 03/25/2010)
04/09/2010	<u>43</u>	DECLARATION signed by Joseph J. Plick re <u>28</u> Cross MOTION for Summary Judgment filed by United States Department of Labor <i>SUPPLEMENTAL DECLARATION</i> filed by United States Department of Labor. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B)(Wolfe, Jane) (Entered: 04/09/2010)
04/09/2010	<u>44</u>	DECLARATION signed by Bonny K. Crosby re <u>28</u> Cross MOTION for Summary Judgment filed by United States Department of Labor <i>SUPPLEMENTAL DECLARATION</i> . (Attachments: # <u>1</u> Exhibit C, # <u>2</u> Exhibit D, # <u>3</u> Exhibit E, # <u>4</u> Exhibit F)(Wolfe, Jane) (Entered: 04/09/2010)

04/09/2010	<u>45</u>	DECLARATION signed by Thomas C. Wiesner re <u>28</u> Cross MOTION for Summary Judgment filed by United States Department of Labor. (Wolfe, Jane) (Entered: 04/09/2010)
04/09/2010	<u>46</u>	DECLARATION signed by Stephen M. Cohen re <u>28</u> Cross MOTION for Summary Judgment filed by United States Department of Labor. (Wolfe, Jane) (Entered: 04/09/2010)
04/09/2010	<u>47</u>	AFFIDAVIT re <u>28</u> Cross MOTION for Summary Judgment <i>Supplemental Affidavit of Jane B. Wolfe, Assistant U.S. Attorney in further support of Cross-Motion for Summary Judgment</i> by United States Department of Labor. (Attachments: # <u>1</u> Exhibit 3, # <u>2</u> Exhibit 4, # <u>3</u> Exhibit 5, # <u>4</u> Exhibit 6, # <u>5</u> Exhibit 7, # <u>6</u> Exhibit 9 – Part 1 – pages 1–30, # <u>7</u> Exhibit 9 – Part 2 – pages 31–60, # <u>8</u> Exhibit 8)(Wolfe, Jane) (Entered: 04/09/2010)
04/09/2010	<u>48</u>	REPLY/RESPONSE to re <u>37</u> Memorandum in Opposition, <u>35</u> Memorandum in Support filed by United States Department of Labor. (Wolfe, Jane) (Entered: 04/09/2010)
04/09/2010	<u>49</u>	CERTIFICATE OF SERVICE by United States Department of Labor re <u>48</u> Reply/Response, <u>46</u> Declaration, <u>47</u> Affidavit, <u>45</u> Declaration, <u>43</u> Declaration, <u>44</u> Declaration, (Wolfe, Jane) (Entered: 04/09/2010)
07/01/2010	<u>50</u>	ORDER granting in part plaintiff's motion for summary judgment <u>16</u> , and the DOL's motion for summary judgment is granted in part <u>28</u> . In the manner and to the extent set forth in the decision, the DOL is ordered to produce additional responsive, non-privileged documents to plaintiff within thirty (30) days of entry of this Order. As noted, the DOL has attested to multiple, thorough searches for responsive documents <u>43</u> , <u>44</u> , describing in detail the scope of the search, and listing files and persons from whom information was sought. I find that the search was adequate, and plaintiff's request for additional discovery concerning the manner and scope of the DOL's search for responsive documents is therefore denied. Signed by Hon. David G. Larimer on 6/30/10. (EMA) (Entered: 07/01/2010)
07/28/2010	<u>51</u>	MOTION for Reconsideration re <u>50</u> Order on Motion for Summary Judgment,,,,,, <i>In Camera Review and extension of production date or in the alternative for clarification</i> by United States Department of Labor.(Wolfe, Jane) (Entered: 07/28/2010)
07/28/2010	<u>52</u>	MEMORANDUM IN SUPPORT re <u>51</u> MOTION for Reconsideration re <u>50</u> Order on Motion for Summary Judgment,,,,,, <i>In Camera Review and extension of production date or in the alternative for clarification</i> by United States Department of Labor. (Wolfe, Jane) (Entered: 07/28/2010)
08/04/2010	<u>53</u>	ORDER re <u>51</u> MOTION for Reconsideration re <u>50</u> Order on Motion for Summary Judgment filed by United States Department of Labor. Responses due by 8/24/2010. Signed by Hon. David G. Larimer on 8/4/10. (PR) (Entered: 08/04/2010)
08/05/2010	<u>54</u>	NOTICE of Appearance by Peter John Glennon on behalf of Dolin, Thomas & Solomon LLP (Glennon, Peter) (Entered: 08/05/2010)
08/05/2010	<u>55</u>	CERTIFICATE OF SERVICE by Dolin, Thomas & Solomon LLP re <u>54</u> Notice of Appearance of <i>Peter J. Glennon</i> (Glennon, Peter) (Entered: 08/05/2010)
08/05/2010	<u>56</u>	NOTICE by Dolin, Thomas & Solomon LLP of <i>Withdrawal</i> (Glennon, Peter) (Entered: 08/05/2010)
08/05/2010	<u>57</u>	CERTIFICATE OF SERVICE by Dolin, Thomas & Solomon LLP re <u>56</u> Notice (Other) of <i>Withdrawal</i> (Glennon, Peter) (Entered: 08/05/2010)
11/05/2010	<u>58</u>	ORDER granting <u>51</u> Motion for Reconsideration. Signed by Hon. David G. Larimer on 11/5/2010. (TO) (Entered: 11/05/2010)
11/29/2010	<u>59</u>	DECISION AND ORDER that upon consideration of Department of Labor's submission and in camera review of the relevant documents, the Court's Decision and Order <u>58</u> is hereby amended, to the extent that the chart attached to that Decision and Order and incorporated therein by reference, is replaced by the one

		here attached. Specifically, the amended chart reflects the Court's revised rulings on Vaughn Index document numbers C-6 and I-21/I-22. The DOL is ordered to complete the production of those documents to plaintiff, to the extent ordered, within 15 days of entry of this Order. Signed by Hon. David G. Larimer on 11/29/10. (Attachments: # <u>1</u> Appendix Chart)(EMA) (Entered: 11/29/2010)
12/20/2010	<u>60</u>	NOTICE by NVR, Inc. <i>Notice of Withdrawal of Individual Attorney</i> Associated Cases: 6:04-cv-06541-DGL-MWP, 6:08-cv-06181-DGL-MWP(Mishra, Devjani) (Entered: 12/20/2010)
04/10/2012	<u>61</u>	ORDER TO SHOW CAUSE. Show Cause Response due by 5/11/2012. Failure to respond could result in the case being dismissed for failure to prosecute pursuant to Rule 41.2 of the local rules. Signed by Hon. David G. Larimer on 4/10/11. (PR) (Entered: 04/10/2012)
04/11/2012	62	ORDER VACATING <u>61</u> Order to Show Cause. Counsel for the Government states that the case is resolved. The Court requests that the Clerk of the Court take steps to close the case. Signed by Hon. David G. Larimer on 4/11/12. **CLERK'S OFFICE TO FOLLOW UP** (PR) (Entered: 04/11/2012)